

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

883M0176

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 119** - 02/01/2006

Introduced by: Senators Bogue, Greenfield, Hundstad, and Smidt and Representative Deadrick

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the use of the
2 emergency rule adoption procedure.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 41-8-1 be repealed.

5 ~~—41-8-1. The Game, Fish and Parks Commission may open, close, or modify any big game,~~
6 ~~small game, and migratory waterfowl hunting seasons in emergencies. If an emergency arises~~
7 ~~beyond the reasonable anticipation of the commission and it becomes necessary in the opinion~~
8 ~~of the commission to open, close, or modify a hunting season or in any manner amend the rules~~
9 ~~pertaining to that season in any part or all of the area affected, the commission may issue an~~
10 ~~emergency rule opening, closing, or modifying the season pursuant to § 41-2-18. The statement~~
11 ~~required by subdivision 1-26-5(3) need not provide evidence of imminent peril to the public~~
12 ~~health, safety, or welfare. The commission shall give such other publicity to such emergency~~
13 ~~rule as it considers expedient.~~

14 Section 2. That § 52-2-8 be repealed.

15 ~~—52-2-8. The State Banking Commission may adopt any necessary rules not inconsistent with~~



1 ~~the laws of this state pertaining to savings and loan associations. Rules governing the payment~~
2 ~~of interest on deposits or similar obligations may be passed as emergency rules and are not~~
3 ~~subject to subdivision 1-26-5(3).~~

4 Section 3. That § 1-26-5 be amended to read as follows:

5 1-26-5. Prior to the adoption or amendment of an emergency rule, an agency shall publish
6 a notice of intent to adopt an emergency rule in the manner prescribed in § 1-26-4.1 and shall
7 serve on the person specified by subdivision 1-26-4(1), each member of the Interim Rules
8 Review Committee, and the director:

- 9 (1) A copy of the proposed rule, which shall bear a special number to distinguish it from
10 a permanent rule;
- 11 (2) Any publication described in § 1-26-6.6 which shall be returned to the agency upon
12 completion of the director's review and retained by the agency; and
- 13 (3) A statement, with the reasons therefor, that the emergency procedure is necessary
14 because of imminent peril to the public health, safety, or welfare, is necessary to
15 prevent substantial unforeseen financial loss to state government, or is necessary
16 because of the occurrence of an unforeseen event at a time when the adoption of a
17 rule in response to such event by the emergency procedure is required to secure or
18 protect the best interests of the state or its residents.

19 ~~No~~ Any agency may use the emergency rule adoption procedure. However, no agency may
20 use the emergency rule adoption procedure for the convenience of the agency merely to avoid
21 the consequences for failing to timely promulgate rules.